IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 264 of 2000

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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UNITED CHRISTIAN ASSOCIATION THRO'SAMSON C CHRISTIAN
Versus
STATE OF GUJARAT

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Appearance:
MR RD RAVAL for Petitioners
MR S.K.PATEL ,ASSTT.PUBLIC PROSECUTOR for Respondent No. 1

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CORAM: CHIEF JUSTICE MR DM DHARMADHIKARI
AND
MR. JUSTICE B.C. PATEL

C.A.V. JUDGEMENT (Per Patel, J.)

The petitioners have invoked the jurisdiction of this Court for issuance of a writ, order or direction for transfer of investigation commenced by the Anand Town Police Station in view of crime register No.403 of 1999 on the ground that the police authorities investigating the crime are not investigating crime as required under the Code of Criminal Procedure, 1973. The petitioners have also prayed directing the respondent-State to grant necessary financial relief to petitioner No.2 for treatment of Silviya under the welfare scheme of State or other fund or scheme providing assistance to needy people.

The petitioners have annexed with the petition, a copy of the First Information Report lodged before Anand Town Police Station vide CR No. 403 of 1999. Reading the said report, it appears that the complainant is residing at village Gamdi. He has one daughter named Silviya. She had to appear in the examinations of Third Year B.A. . She left the house for going to college at 9.30 a.m. on 26.10.1999. At about 10 a.m., the informant was informed that one Mohmed Ali Musalman had thrown acid on Silviya. The informant immediately rushed to the sight and he found that many persons had collected there. His daughter was crying . She was immediately shifted to Municipal Dispensary at Anand. It is alleged in the complaint that the said Mohmed Ali threw acid on her face and breast and thereby had caused grievous hurt. Photographs (computerised) are placed on record with a view to indicate the nature and extent of injuries sustained by her.

Learned advocate has mentioned in the petition that the Mamlatdar recorded her statement between 12 noon and 1 p.m. on the day of the incident. Petitioner No.2 has made some grievance that nobody was found at "Gamdi Vistar Pagharia Police Chowky". He stated that his complaint was taken at 7 p.m. and thereafter , panchnama of the scene of occurrence was drawn. The grievance made by the petitioners in the petition is that on account of inaction by the police, the accused had sufficient time to run away. In fact, even till date, the police is not able to arrest the main accused who has thrown acid and had made life of Silviya miserable. He has made grievance that the police has recorded the case making it an offence punishable under Section 326, I.P.C only, though it was a case of assault on her life.

On 11.4.2000, we expressed a desire that State should extend all medical help to the victim. The Collector, Anand was called upon to help the victim through State

reserve fund, if any or through social organization so that necessary medical help can be rendered to the victim. We directed DSP , Anand to gear up his machinery and to make suitable efforts to apprehend the main accused. The Collector was also directed to extend all his assistance through Local Medical Authorities for extending necessary treatment to the victim.

It appears that the main accused is from Bihar and was in Anand for earning his livelihood. It appears that he was not getting response of any kind whatsoever from Silviya. The accused threw acid on her face, as a result of which, she sustained injuries on her face hands and breast. The investigating officer made inquiries from all persons engaged in embroidery work and particularly belonging to the State of Bihar. The investigating officer also made inquiries at Parikh Bhuvan where the accused was residing. The police made inquiries at Mumbai and Bihar . Names of the persons contacted are referred in the report. The photograph was also telecast on T.V. on 7.2.2000 in the edition of "Wanted Accused". It is stated that on 2.11.1999, a fax message was sent to the Superintendent of Police, Sitamadhi, Bihar . Information was published in the local press to the effect that the accused is required for investigation in the crime in question. The police has recorded statements of several persons but the police is not in a position to trace the accused. Dharmendrakumar and Rakesh Sharma alleged to have been connected with the crime were arrested and were produced before the court . As there was enough evidence to charge sheet the aforesaid two accused, a charge sheet is also sent to the court of Judicial Magistrate, First Class on 21.2.2000 and the accused Mohmed Ali Musalman has been declared as absconder. The fact that he is absconding has been given wide publicity through the Government Gazette on different dates. It is pointed out that the police is trying level best to arrest the main accused. A special police party was deputed to get the first hand information about the action taken by the Superintendent of Police, Sitamadhi, Bihar. DSP, Sitamadhi was personally requested to make all necessary efforts to arrest the main accused. A Copy of report is placed on record indicating the action taken by the police for arrest of the accused. Copies of some of the statements recorded , a photograph published in newspaper, a copy of the photograph forwarded to Door Darshan, and a copy of the directions forwarded to the police station with regard to seven absconding accused are also placed on record.

Thus, the police has tried its level best to arrest the

accused.

The Collector has forwarded his report to the Additional Public Prosecutor along with statements and correspondence for the purpose of indicating that the Collector has tried his best. It is pointed out in the report that the victim is not in the hospital at present, but is residing with her parents. She was treated by Dr Samir Raval in Charutar Hospital, Anand. She was given assistance of Rs. 25,000/- by I.P.Mission , Anand, Roman Catholic Church, Gamdi and Anand Arts College. So far as the amount to be paid to the victim from the reserve fund is concerned, it is pointed out that in absence of reserve fund available with the Collector, at district level, he has addressed a proposal to the Revenue Department, Government of Gujarat on 25.4.2000 for making necessary arrangement from the State reserve fund at the State level. A copy of the said letter is annexed with the report. A copy of the proposal forwarded to the Commissioner, Health and Medical and Medical Education, Gandhinagar has also been placed on record. It is indicated that the victim was required to be forwarded to SSG Hospital, Petlad; or to Civil Hospital, Ahmedabad or to Sayaji Hospital, Baroda for further treatment as there is no Government Hospital at Anand. If the victim is shifted to any public hospital , it is the duty of public hospital authorities to provide necessary treatment.

It appears that for one or the other reason, the victim is not sent for treatment either at Civil Hospital, Ahmedabad or Sayaji Hospital, Baroda where better treatment is available and where cost factor is not relevant because the treatment is at nominal rate. The Commissioner, Health, Gujarat State instructed SSG Hospital, Petlad to give her treatment and to transfer her to Sayaji Hospital, Baroda for better treatment. The Mamlatdar, Anand (Rural) and the Mamlatdar,Anand (town) visited the house of the victim with medical team of SSG Hospital, Petlad . To the surprise of the team, the victim as well as her parents have shown indifferent attitude and refused to take the victim to Baroda for further treatment. Copies of the statements given before both the Mamlatdars by Silviya and her father on 27.4.2000 have been annexed with the report. The Collector has also pointed out in the report that Dr J. D. Parmar, incharge Civil Surgeon, Sayaji General Hospital , Petlad visited the victim at her residence and tried his level best to convince for admission for treatment in Sayaji Hospital, Baroda. However, the victim did not agree for treatment at Baroda. Again, on 28.4.2000, Dr J. D. Parmar tried. However, the victim

has refused to go to Sayaji Hospital, Baroda. The father of the victim addressed a letter to the Civil Surgeon, Petlad intimating that the victim is mentally depressed and she has strictly opposed for going to Baroda for treatment. From the tenor of the letter, it appears that only after the mental condition of the victim is improved, something can be done. He has stated that they will contact to go to Baroda Hospital and will request to send ambulance . A copy of the said letter is also produced on record.

Thus,the officers of the Government viz. Collector, Civil Surgeon and Mamlatdars have tried their level best to render all possible assistance. However, for one reason or the other, the victim as well as her father are declining for the same. Learned advocate appearing in the matter submitted that there is much pressure from the accused and possibly, therefore, the parents are not agreeable. When the main accused is absconding and his whereabouts are not known, it is difficult to accept this contention. The learned advocate tried to suggest that the community as a whole is bringing pressure on the father of the victim. We are of the view that when two accused are already arrested and one accused is absconding, it is difficult to accept this submission which is not founded on any material. Refusal on part of the victim and her father to shift to Baroda for further treatment is required to be deprecated.

Learned advocate submitted that some non-governmental organization may be involved in the matter so that they can persuade the victim and her father. It is for the learned advocate or non-governmental organization to persuade as this is a case for which intervention of the Court is not required.

In the facts and circumstances of the case, therefore, the petition stands dismissed. However, it would be open for the learned advocate to involve any non-governmental organization if he thinks that that would serve the purpose. But it may not be said that it is an opinion expressed by this Court.

The Collector shall remind to the authorities about the proposal forwarded for medical assistance and it is hoped that the assistance will be rendered soon.

Petition accordingly stands dismissed.

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